APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/772,394	01/30/2001	Peter Stangel	79731.010100	1200

22191   7590   11/25/2008
GREENBERG TRAURIG, LLP
2101 L Street, N.W.
Suite 1000
Washington, DC 20037

EXAMINER
COBANOGLU, DILEK B

ART UNIT	PAPER NUMBER
3626	

NOTIFICATION DATE	DELIVERY MODE
11/25/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

dcpatdkt@gtlaw.com
andersonn@gtlaw.com

	Application No.	Applicant(s)
Advisory Action **Before the Filing of an Appeal Brief**	09/772,394	STANGEL, PETER
	Examiner	Art Unit
	DILEK B. COBANOGLU	3626

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 October 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☒ The period for reply expires _3_ months from the mailing date of the final rejection.

   b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

   Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

   (a)☒ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b)☐ They raise the issue of new matter (see NOTE below);

   (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

   NOTE: _See continuation sheet._ (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _NONE._

   Claim(s) objected to: _NONE._

   Claim(s) rejected: _37-68._

   Claim(s) withdrawn from consideration: _NONE._

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
    See continuation sheet.

12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.

13. ☐ Other: _____.

/C Luke Gilligan/
Supervisory Patent Examiner, Art Unit 3626

Continuation of 3: The pending claims 37-47, 58-61 and 67 have been amended now that the scopes of the claims are changed. The independent claims 37 and 45 have been amended to change the claims from "computer readable media" to "a method for collecting patient clinical encounter information", and to "a method". The other claims listed in the beginning of this paragraph also amended to change most of the claims. The amendment made to claim 66 only can be entered, because it basically corrects a typographical error.

Continuation of 11: In response to Applicant's argument about Campbell does not teach "transmitting, via a network, a navigation module, a verification module and a user interface having at least one pop-up list from the server to a client device"; Examiner respectfully submits that Applicant is arguing about a new limitation added after the final rejection, therefore will not be addressed.

In response to Applicant's argument about Campbell does not teach "a verification module on the client device that determines an authorization level for at least one diagnosis"; Examiner respectfully submits that the present invention recites in paragraph 0059 that The "Bed Location pop-up list 42 displays a selection of hospital locations, each which may require a different set of criteria to authorize care for the location. e.g. The standard authorization level for a patient in the hospital is "acute level of care," however the authorization for a patient in an intensive care unit would be "intensive level of care.", therefore depending on the location of the patient the authorization can determined; Campbell teaches " The network configuration 200 includes a server computer 202 and a number of personal computers 204-214 connected together on a computer network 218. In this configuration, the network is an ethernet network, but any other conventional computer network can be used to implement the system. The computers are distributed throughout the hospital and are designed to provide access to some common functions as well as some special purpose functions unique to the particular computer. Some of the client computers have special attributes that enable them to perform functions relevant to the part of the hospital where they are located: 1) the reception computer 204 checks clients and patients in and out of the office and handles billing functions; 2) the exam room computers 208-210 are used by doctors and nurses to conduct medical examinations, to make diagnoses, and select a treatment protocol; 3) surgery/treatment computers 212 are located at surgery and treatment areas in the hospital and provide patient status data (e.g., traffic control, patient triage information such as names of patients, status, presenting complaint, to-do lists) as well as similar functions as the exam room computers 208-210; 4) the lab computer 214 interfaces with lab equipment and is used to enter information from lab tests; and 5) the pharmacy computer 216 is used to fill prescriptions, conduct inventory control on pharmaceuticals and medical supplies, order supplies, and provide database search functions. " in col. 5, lines 33-61.

In response to Applicant's statement about "Examiner has failed to particularly point out how Hayward renders the Applicant's use of pop-up lists as claimed obvious"' Examiner respectfully submits that according to MPEP section 2141 "The Supreme Court further stated that: When a work is available in one field of endeavor, design incentives and other market forces can prompt variations of it, either in the same field or a different one. If a person of ordinary skill can implement a predictable variation, § 103 likely bars its patentability. For the same reason, if a technique has been used to improve one device, and a person of ordinary skill in the art would recognize that it would improve similar devices in the same way, using the technique is obvious unless its actual application is beyond his or her skill. Id. at ___, 82 USPQ2d at 1396.

In response to Applicant's argument about Campbell does not teach " a system having a criteria associated with rules required for confirming diagnoses that have been entered by a user" ; Examienr respectfully submits that the claims recites: "receiving a criteria selection from the user via the user interface, the criteria being selected from a pre-defined list of criteria associated with the diagnosis, the criteria associated with a rule required for confirming the diagnosis, the criteria associated with at least one finding" and Campbell teaches "When the physical exam is complete, the doctor can proceed to a diagnosis screen. FIG. 9 illustrates an example of the diagnosis screen. This screen is displayed in response to the doctor certifying that the exam is complete as explained above. The diagnosis screen includes the patient banner 902, a box for displaying abnormal observations 904, a box for displaying a rule out list 906, and a box for displaying tentative diagnosis 908. The box 910 labeled as "unresolved symptoms" keeps a running total of symptoms that are not linked to a diagnosis. The diagnosis screen also includes a number of navigational controls used to navigate to other parts of the system or to launch other features. These controls include: 1) a "search for diagnosis" button 912 that launches the interface to a database search tool for keyword searching the system's list of diagnosis, 2) a "protocol" button 914 which launches a service for applying a protocol to the patient given the tentative diagnosis selected in the diagnosis screen, 3) a healthy pet button 916 which enables the team member to indicate that no diagnosis or treatment protocol need be selected, and 4) an exit button 918 used to exit the diagnosis screen and return to the main window of the client software." in col. 16, lines 43-54.